Crl.A. 81/2003
BEFORE
THE HON'BLE MR JUSTICE P.G.AGARWAL

Heard learned counsel for the appellant as well as Mr. P.C.Gayan, learned P.P. Assam.

The appellant Bhogeswar Chutia has been convicted by the learned Sessions Judge, Dhemaji in Sessions Case No. 47(DH)/2001 under Section 376 IPC sentencing him to undergo rigorous imprisonment for 7 years and to pay fine of Rs.1000/-, in default in payment of fine, to undergo further imprisonment for another one month. Hence, the present appeal.

Prosecution case, in brief, is that on 01.01.2001 at about 8 P.M. the accused appellant forcibly committed rape on the victim Purnima Sonowal promising to marry her. The poor victim reported the matter to the villagers and thereafter the FIR was lodged.

In view of the evidence on record, the conviction of the appellant has not been seriously challenged before us and it is submitted that the accused in jail custody for nearly four years. As such, the sentence may be reduced.

We have perused the evidence of the victim and other witnesses. The prosecutrix, a young girl aged about 14/15 years, has categorically stated that the accused forcibly committed rape on her. The defence plea in this case is of wilfull elopment and not forcible rape. PW-5 the Doctor, who examined the victim also found the hymen torned and simen like substance in the vegina. Thus, the medical evidence supports the oral testimony of the victim.

In view of the above, we affirm the order of conviction. We have also heard the learned counsel for both the parties on the setnence and on consideration of facts and circumstances, we reduce the setence to imprisonment for 5(five) years and fine of Rs.1000/-, in default in payment of fine, to undergo further imprisonment for 15 days.

With the above modification in sentence, the appeal stands disposed of.